FILE COPY

FILED
DEC 24
CHARLES ELMORE

IN THE

Supreme Court of the United States

OCTOBER TERM, 1929.

No. [redacted] 17

BROOKS-SCANLON CORPORATION, WILSON CYPRESS COMPANY, CUMMER CYPRESS COMPANY, *Appellants*,

vs.

UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, ET AL., *Appellees*.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION.

THE JURISDICTION OF THE COURT.

H. P. ADAIR,
Atlantic National Bank Building,
Jacksonville, Florida.

CHARLES E. COTTERILL,
505 Grant Building,
Atlanta, Georgia.

AUGUST G. GUTHEIM,
8 Jackson Place,
Washington, D. C.

Solicitors for Appellants.

December 20, 1929.

PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1929.

No. 494.

BROOKS-SCANLON CORPORATION, WILSON CYPRESS COMPANY, CUMMER CYPRESS COMPANY, *Appellants*,

vs.

UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, ET AL., *Appellees*.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION.

THE JURISDICTION OF THE COURT.

(A) The Statutes.

Appellants rely upon Section 238 of the Judicial Code as amended by the Act of Congress of February 13, 1925, (Chapter 229, 43 Stat. 938); also the Urgent Deficiency Act of Congress of October 22, 1913, (Chapter 32, 38 Stat. 219, 220).

(B) The Decree.

The decree appealed from was dated April 17, 1929, and entered April 22, 1929 (Tr. 1329). Appellants' notice of appeal was dated June 6, 1929, and was presented on that day (Tr. 1331); the Order allowing said appeal was dated June 6, 1929, and was entered June 19, 1929; and proof of service upon all adverse parties in interest, of notices of said appeal, were filed June 18 and 20, 1929 (Tr. 234, 1354, 1356).

(C) The Nature of the Case and of the Rulings Below.

This suit was instituted (Tr. 1185) by the Appellants (Complainants below) to enjoin, set aside, and annul so much of an order of the Interstate Commerce Commission dated and filed August 2, 1928 (Tr. 1216), and subsequently amended and clarified in certain particulars (Tr. 1323), in a certain proceeding had before said Interstate Commerce Commission entitled No. 18364, *Georgia Public Service Commission,* Complainant, vs. *Atlantic Coast Line Railroad Company,* Defendant, reported in 146 I. C. C. 717 (Tr. 1205), as required the said Railroad Company to establish and put in force in intrastate commerce within and throughout the entire State of Florida, without exception, certain rates on logs which were in the same Order fixed as reasonable for transportation from points in northern Florida to points in Georgia in interstate commerce.

Circuit Judge Walker and District Judges Sibley and Dawkins comprised the specially-constituted District Court and concurred in a unanimous opinion filed January 17, 1929 (*State of Florida* v. *United States,* 30 Fed. (2d) 116, (Tr. 1242). Afterwards said Trial Court so constituted, by its Order (Tr. 1297) granted a re-

hearing and allowed the Appellants to file a Supplemental Bill (Tr. 1270). Thereafter, upon said rehearing, the said Judges comprising said Trial Court concurred in a unanimous opinion (Id. 31 Fed. (2d) 580 (Tr. 1325), and on April 22, 1929, entered the final decree dated April 17, 1929 (Tr. 1329), by which the said Trial Court, for the reasons stated in said last described opinion, denied the relief sought and dismissed the Bill and the Supplemental Bill.

(D) Cases Sustaining the Jurisdiction.

Baltimore & O. R. Co. v. United States, 277 U. S. 291.
St. Louis & O'Fallon R. Co. v. United States, 279 U. S. 461.
Houston, E. & W. T. R. Co. v. United States, 234 U. S. 342.
New York v. United States, 257 U. S. 591.

Respectfully submitted,

H. P. Adair,
Atlantic National Bank Building,
Jacksonville, Florida.

Charles E. Cotterill,
505 Grant Building,
Atlanta, Georgia.

August G. Gutheim,
8 Jackson Place,
Washington, D. C.

Solicitors for Appellants.

December 20, 1929.

Service of copy of the foregoing statement as to Jurisdiction on Appeal is hereby acknowledged this .....day of December, 1929.

.....
For United States of America, Appellee.

.....
Solicitor for Interstate Commerce Commission, Appellee.

.....
Solicitor for Atlantic Coast Line Railroad Company, Appellee.

.....
Attorney General, State of Georgia, for Georgia Public Service Commission, Appellee.